

**EXHIBIT B**

**Transcript of the Deposition of Don Maxwell**

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**CITICOURT**  
THE REPORTING GROUP

<p>5</p> <p>1 A. Yes.</p> <p>2 Q. What was your role?</p> <p>3 A. Me and Floyd made the decision who we hire,</p> <p>4 who we don't.</p> <p>5 Q. Was Mr. Sampson terminated from his</p> <p>6 position?</p> <p>7 A. I guess in the end he was. I think it was</p> <p>8 job abandonment.</p> <p>9 Q. Did you have any role in making the</p> <p>10 decision to terminate Mr. Sampson?</p> <p>11 A. No.</p> <p>12 Q. I'll have you take a look under Tab 2 at</p> <p>13 what's been marked as Exhibit 2. Can you tell me</p> <p>14 what that is?</p> <p>15 A. Looks like the LTO lead job description.</p> <p>16 Q. Does what's reflected on Exhibit 2</p> <p>17 accurately describe the LTO job?</p> <p>18 A. Yes.</p> <p>19 Q. Is that the position that Mr. Sampson</p> <p>20 occupied while he was employed by Kane?</p> <p>21 A. Yes.</p> <p>22 Q. Did he have any supervisory authority over</p> <p>23 other employees at Kane?</p> <p>24 A. The supervisory authority would be</p> <p>25 direction and assistance.</p>	<p>7</p> <p>1 been marked as Exhibit No. 3?</p> <p>2 A. Uh-huh (affirmative).</p> <p>3 Q. Is that also -- is that the same job</p> <p>4 description that's reflected in Exhibit 2 for the</p> <p>5 lead LTO position that Mr. Sampson had?</p> <p>6 A. It covers the basic things. They both</p> <p>7 cover the basic things.</p> <p>8 Q. Is there anything left out of Exhibit 3</p> <p>9 that Mr. Sampson was required to do as part of his</p> <p>10 job responsibilities?</p> <p>11 MR. LEE: Objection, foundation.</p> <p>12 THE WITNESS: What was the question again?</p> <p>13 Q. BY MR. STEVENS: Is there anything left out</p> <p>14 of Exhibit 3 that Mr. Sampson was required to perform</p> <p>15 as part of his job responsibilities?</p> <p>16 MR. LEE: Same objection.</p> <p>17 THE WITNESS: Not that I notice.</p> <p>18 Q. BY MR. STEVENS: Would you take a look</p> <p>19 under tab 4 at Exhibit No. 4? Tell me what that is.</p> <p>20 A. This is associate counseling.</p> <p>21 Q. What's the purpose of an associate</p> <p>22 counseling?</p> <p>23 A. The purpose of associate counseling is to</p> <p>24 help coach up people so they understand their job</p> <p>25 responsibilities.</p>
<p>6</p> <p>1 Q. What do you mean by "direction and</p> <p>2 assistance"?</p> <p>3 A. Showing them best methods for picking. He</p> <p>4 also would be in communication with the carriers, and</p> <p>5 making sure the product goes out in a quality manner.</p> <p>6 Q. While he was employed by Kane, did</p> <p>7 Mr. Sampson perform the duties of his position well?</p> <p>8 A. He needed a lot of training. We knew that</p> <p>9 bringing him in, so we tried to help him train up.</p> <p>10 Q. After he was trained, did he perform the</p> <p>11 duties of his position well?</p> <p>12 A. No, he did not.</p> <p>13 Q. Was that during the entire time that he</p> <p>14 worked for Kane that he didn't perform the duties of</p> <p>15 his position well?</p> <p>16 A. Well, after a while we saw that he wasn't</p> <p>17 quite catching on, so we were working to coach him</p> <p>18 up.</p> <p>19 Q. When did you make the determination that he</p> <p>20 wasn't catching on?</p> <p>21 A. Well, you know, any job requires coaching,</p> <p>22 and we were just trying to coach him up. As far as</p> <p>23 the time frame, you know, it could have been after a</p> <p>24 couple of months.</p> <p>25 Q. Would you take a look under tab 3 at what's</p>	<p>8</p> <p>1 Q. Did you sign this document on the second</p> <p>2 page?</p> <p>3 A. Yes. On the first page?</p> <p>4 Q. On the first page.</p> <p>5 A. Yeah.</p> <p>6 Q. Whose signature is that that appears under</p> <p>7 Mr. Sampson's signature on the second page?</p> <p>8 A. That's Floyd's.</p> <p>9 Q. So your signature is on the first page?</p> <p>10 A. Yeah.</p> <p>11 Q. Is that "yes"?</p> <p>12 A. Yes.</p> <p>13 Q. It's just for the court reporter that we</p> <p>14 want to make sure the record is clear what you're</p> <p>15 actually saying.</p> <p>16 A. Oh, okay. Yes.</p> <p>17 Q. And on here you put "type of counseling</p> <p>18 given, verbal"; is that correct?</p> <p>19 A. Yeah.</p> <p>20 Q. Are all verbal counselings reflected in a</p> <p>21 written associate counseling report?</p> <p>22 A. No, this is -- we have verbal counseling,</p> <p>23 and then it goes to written warning, then final</p> <p>24 suspension, stuff like that.</p> <p>25 Q. So the question was were all verbal</p>

<p>9</p> <p>1 counselings reflected in a written document in an</p> <p>2 associate counseling report like this one?</p> <p>3 A. Yes.</p> <p>4 Q. So this one was for poor performance; is</p> <p>5 that correct?</p> <p>6 A. Yes.</p> <p>7 Q. What was it Mr. Sampson did or didn't do</p> <p>8 that reflected poor performance?</p> <p>9 A. I think basically it says that he didn't --</p> <p>10 wasn't quite fulfilling the requirements of the job,</p> <p>11 and so we thought we'd take an opportunity to help</p> <p>12 coach him up.</p> <p>13 Q. What was it that he didn't do that was a</p> <p>14 requirement of the job?</p> <p>15 A. Looks like he failed to put a pallet on a</p> <p>16 truck, and we stated here that we wanted to counsel</p> <p>17 him just to ensure that pallets aren't missed in the</p> <p>18 future.</p> <p>19 Q. Would you take a look under tab 5 at</p> <p>20 Exhibit 5? Is that another associate counseling</p> <p>21 report that reflected a verbal counseling given to</p> <p>22 Mr. Sampson?</p> <p>23 A. Yes.</p> <p>24 Q. And is that your signature that appears on</p> <p>25 the first page?</p>	<p>11</p> <p>1 that happened on June 24, 2016?</p> <p>2 A. I think it --</p> <p>3 Q. The second paragraph.</p> <p>4 A. Oh, the second. I'm sorry.</p> <p>5 Q. What is that referring to?</p> <p>6 A. We received a request from the customer to</p> <p>7 get something received in quick, which happens quite</p> <p>8 a bit. And they gave me a call later in the day</p> <p>9 asking me why it wasn't received.</p> <p>10 Q. How frequently would a receiving error</p> <p>11 occur at your facility?</p> <p>12 A. We get one every once in a while.</p> <p>13 Q. While Mr. Sampson was employed by Kane, are</p> <p>14 you aware of any other employees who received an</p> <p>15 associate counseling report for having made a</p> <p>16 receiving error?</p> <p>17 A. Gosh, I'd have to check.</p> <p>18 Q. So sitting here today, you can't say one</p> <p>19 way or the other?</p> <p>20 A. I am not sure on receiving. I know that</p> <p>21 I've given several shipping error counselings and</p> <p>22 correctives. Receiving? There may have been a</p> <p>23 couple. I'd really have to check.</p> <p>24 Q. Would you take a look under tab 6 of</p> <p>25 Exhibit No. 6? Have you seen a copy of that document</p>
<p>10</p> <p>1 A. Yes.</p> <p>2 Q. This one has a check next to it, poor</p> <p>3 performance and poor work quality; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. What was it that Mr. Sampson did or didn't</p> <p>6 do that you believe reflected poor performance and</p> <p>7 poor work quality?</p> <p>8 A. Looks like he made a receiving error as</p> <p>9 well as not responding to the customer in a timely</p> <p>10 manner, which caused them to do some follow-up. So</p> <p>11 we wanted to help him with that as well.</p> <p>12 Q. What's a receiving error?</p> <p>13 A. Well, a receiving error is when we bring</p> <p>14 product into the building, and it's just not right</p> <p>15 when we brought it in. If you receive something</p> <p>16 wrong, it causes all sorts of problems downstream.</p> <p>17 So it's very important to make sure we're receiving</p> <p>18 stuff correctly.</p> <p>19 Q. So what error are you saying in this</p> <p>20 Exhibit 5 that Mr. Sampson did that was a receiving</p> <p>21 error?</p> <p>22 A. In this case it looks like he put an</p> <p>23 incorrect lot in for an item.</p> <p>24 Q. Under "Manager's statement" -- the heading</p> <p>25 "Manager's statement" where it refers to something</p>	<p>12</p> <p>1 prior to today?</p> <p>2 A. No.</p> <p>3 Q. Take a minute and read through the</p> <p>4 document, and tell me whether you were made aware by</p> <p>5 anyone of the allegations made in the document.</p> <p>6 A. Okay.</p> <p>7 Q. Were you made aware of any of the</p> <p>8 allegations that are reflected in Exhibit No. 6?</p> <p>9 A. Seems like I heard about some of them. I</p> <p>10 guess I -- some.</p> <p>11 Q. Okay. Which one?</p> <p>12 A. I knew that he was suspended for going</p> <p>13 through mine and Diane's desk. Basically that's it,</p> <p>14 I guess.</p> <p>15 Q. How did you -- did you personally see</p> <p>16 Mr. Sampson going through yours and Diane's desk?</p> <p>17 A. No.</p> <p>18 Q. How did you learn that Mr. Sampson went</p> <p>19 through yours and Diane's desk?</p> <p>20 A. It was reported to me after I got back from</p> <p>21 vacation. I was on vacation during the time.</p> <p>22 Q. Who reported it to you?</p> <p>23 A. I think I heard it from Natalia.</p> <p>24 Q. What is Natalia's last name?</p> <p>25 A. Oh, gosh. She moved to Florida a couple of</p>

<p style="text-align: right;">13</p> <p>1 years ago. Scholl or something like that. Schull.</p> <p>2 Q. Will you take a look under tab 7 at Exhibit</p> <p>3 No. 7 and tell me what that is?</p> <p>4 A. Oh, this is his yearly review. The first</p> <p>5 one.</p> <p>6 Q. Mr. Sampson's yearly review?</p> <p>7 A. Yes.</p> <p>8 Q. Who evaluated Mr. Sampson that's reflected</p> <p>9 on Exhibit 7?</p> <p>10 A. I did.</p> <p>11 Q. So the review date is March 27, 2016; is</p> <p>12 that correct?</p> <p>13 A. That's when we gave it, I think.</p> <p>14 Q. What period did it cover?</p> <p>15 A. It covered up to the end of 2015.</p> <p>16 Q. Take a look at what's been marked as</p> <p>17 Exhibit 8. Tell me what that is.</p> <p>18 A. This is his 45-day review.</p> <p>19 Q. Was he working for Kane through a temporary</p> <p>20 agency, ProLogistics?</p> <p>21 A. Let's see. Yes. Yes.</p> <p>22 Q. So this was a review done by Kane for the</p> <p>23 work he performed for Kane while he was working</p> <p>24 through ProLogistics; is that correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">15</p> <p>1 where they're at and what they want, and then we take</p> <p>2 the sections of it and help coach them up.</p> <p>3 Q. After Mr. Sampson worked for the temp</p> <p>4 agency, I take it Kane hired him as a permanent</p> <p>5 employee; is that fair?</p> <p>6 A. Correct.</p> <p>7 Q. Would you take a look at what's been marked</p> <p>8 as Exhibit 12? Can you tell me what that is?</p> <p>9 A. This is our break and lunch schedule.</p> <p>10 Q. Was this break and lunch schedule in place</p> <p>11 while Mr. Sampson was employed by Kane?</p> <p>12 A. I think it came in -- it was during. It</p> <p>13 wasn't the whole time. Yes.</p> <p>14 Q. Do you know when it was put in place?</p> <p>15 A. Gosh. No.</p> <p>16 Q. Do you remember the year?</p> <p>17 A. No, I don't. I'd have to check on that.</p> <p>18 Q. Did you have any input in establishing this</p> <p>19 break and lunch schedule?</p> <p>20 A. No. This came down from HR, I'm pretty</p> <p>21 sure.</p> <p>22 Q. Do you know if Mr. Sampson was ever told</p> <p>23 that he couldn't contact Kane's human resources</p> <p>24 department during his breaks or lunch?</p> <p>25 A. No. That's the preferred time.</p>
<p style="text-align: right;">14</p> <p>1 Q. Did Kane, while Mr. Sampson was employed</p> <p>2 through ProLogistics, set the duties of his position?</p> <p>3 A. Did Kane set --</p> <p>4 Q. Yes.</p> <p>5 A. Yes.</p> <p>6 Q. Do you know what ProLogistics did while he</p> <p>7 was employed through ProLogistics?</p> <p>8 A. Nothing. ProLogistics just provides us</p> <p>9 with the help, and then we take it from there as far</p> <p>10 as their attendance and training.</p> <p>11 Q. So you -- that is "you", meaning Kane, sets</p> <p>12 their compensation and duties and work requirements;</p> <p>13 is that correct?</p> <p>14 A. Correct.</p> <p>15 Q. Take a look at Exhibit 9 and tell me what</p> <p>16 that is.</p> <p>17 A. Oh, this is a succession plan that Floyd</p> <p>18 offers.</p> <p>19 Q. Do you know the purpose of the succession</p> <p>20 plan?</p> <p>21 A. It's something that is optional, and the</p> <p>22 employee asks to be part of it.</p> <p>23 Q. Do you know why a succession plan is put in</p> <p>24 place?</p> <p>25 A. Yeah. What we do is we want to evaluate</p>	<p style="text-align: right;">16</p> <p>1 Q. Do you know if, while sitting at his desk,</p> <p>2 whether he was ever prohibited from contacting human</p> <p>3 resources?</p> <p>4 A. No.</p> <p>5 Q. "No", he wasn't, or "no", you don't know?</p> <p>6 A. No, he wasn't, as far as I know.</p> <p>7 Q. I didn't ask the question very well.</p> <p>8 Was Mr. Sampson at some point suspended</p> <p>9 from his position as lead forklift operator?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know why?</p> <p>12 A. I think it had something to do with the</p> <p>13 going through my desk and Diane's desk.</p> <p>14 Q. Did you have any input into the decision to</p> <p>15 suspend him?</p> <p>16 A. No.</p> <p>17 Q. Did you have any discussions with Floyd</p> <p>18 Kearl about Mr. Sampson going through your desk or</p> <p>19 through -- was it Diane's desk?</p> <p>20 A. No, the -- I got back from vacation and I</p> <p>21 heard about it. By then I think Floyd and HR had</p> <p>22 that pretty well underway. I mean, obviously I knew</p> <p>23 about it. They told me when I got back.</p> <p>24 Q. Do you know whether Mr. -- when Mr. Sampson</p> <p>25 was suspended whether it was with or without pay?</p>

<p>17</p> <p>1 A. With.</p> <p>2 Q. Did Kane at some point eliminate the</p> <p>3 position of LTO?</p> <p>4 A. Yeah. Yes. For about a year until we got</p> <p>5 enough people.</p> <p>6 Q. So I take it the decision to eliminate the</p> <p>7 LTO position wasn't a disciplinary action against</p> <p>8 Mr. Sampson; is that correct?</p> <p>9 MR. LEE: Object to foundation.</p> <p>10 THE WITNESS: No.</p> <p>11 Q. BY MR. STEVENS: Did you have any input</p> <p>12 into the decision to eliminate the LTO position?</p> <p>13 A. No. I think it was just based had off</p> <p>14 number of people.</p> <p>15 Q. Take a look back at Exhibits 4 and 5, the</p> <p>16 associate counseling reports. Were the issues raised</p> <p>17 in Exhibits 4 and 5 brought to Mr. Sampson's</p> <p>18 attention when he was given the performance review</p> <p>19 that is reflected in Exhibit 7?</p> <p>20 A. No.</p> <p>21 Q. Why not?</p> <p>22 A. Because they're totally separate issues and</p> <p>23 timelines.</p> <p>24 Q. What do you mean?</p> <p>25 A. Well, the review, that ended December of</p>	<p>19</p> <p>1 A. Pretty sure, yes, sometime, because I was</p> <p>2 aware.</p> <p>3 Q. Do you know whether it was before or after</p> <p>4 Mr. Sampson was terminated?</p> <p>5 A. Before. It had to have been before. I</p> <p>6 know that Aaron told us first. He told me and Floyd,</p> <p>7 and then we went to HR. I am sure it was discussed.</p> <p>8 Q. Do you know the person with whom you spoke</p> <p>9 at HR about Mr. Sampson's claim?</p> <p>10 A. Had to have been Ann or Alfonso. They're</p> <p>11 the ones that was working with Aaron.</p> <p>12 Q. Were you present when Mr. Sampson was</p> <p>13 suspended from his position?</p> <p>14 A. No. I wasn't in the room.</p> <p>15 Q. Do you know whether security was present</p> <p>16 when he was being suspended? While he was told he</p> <p>17 was being suspended?</p> <p>18 A. Present, like in the facility or in the</p> <p>19 room?</p> <p>20 Q. With him in the room.</p> <p>21 A. I don't think so, no. But I don't</p> <p>22 remember. I wasn't involved.</p> <p>23 Q. Take a look at Exhibit 16. Have you seen a</p> <p>24 copy of that document before today?</p> <p>25 A. I don't think I saw this one.</p>
<p>18</p> <p>1 2015, and these occurred afterwards.</p> <p>2 Q. They did occur, though, before you actually</p> <p>3 gave Mr. Sampson his performance review, correct?</p> <p>4 A. Let's see the date here. I gave this on</p> <p>5 3/27, and, yes, one of them did occur before the --</p> <p>6 before I gave the review.</p> <p>7 Q. Take a look at what's been marked as</p> <p>8 Exhibit 14. Have you seen a copy of that e-mail</p> <p>9 prior to today?</p> <p>10 A. Looks like it was sent to me, but I can't</p> <p>11 remember -- obviously I've seen it, yes.</p> <p>12 Q. Do you know if the subject of what's talked</p> <p>13 about in the e-mail that's reflected in Exhibit 14 is</p> <p>14 one of the issues raised in one of the associate</p> <p>15 counseling reports?</p> <p>16 A. Let's take a look here. What was the</p> <p>17 question again?</p> <p>18 Q. Is the subject of what's being talked about</p> <p>19 in Exhibit 14 one of the issues raised in either one</p> <p>20 of the associate counseling reports that he received?</p> <p>21 A. No.</p> <p>22 Q. Did anybody from Kane's human resources</p> <p>23 department ever talk to you about a claim by</p> <p>24 Mr. Sampson that he believed he was being treated</p> <p>25 differently because of his race?</p>	<p>20</p> <p>1 Q. You were talking about Mr. Sampson's</p> <p>2 performance. What problems in his performance did</p> <p>3 you believe he had?</p> <p>4 A. Basically it was not fulfilling the job</p> <p>5 responsibilities fully.</p> <p>6 Q. What were the responsibilities that he</p> <p>7 didn't fulfill?</p> <p>8 A. There was a couple of things. Error</p> <p>9 research, direction.</p> <p>10 Q. What do you mean by "direction"?</p> <p>11 A. Just a few things he needed coached up on.</p> <p>12 Q. What do you mean by "direction"?</p> <p>13 A. Basically what picks needed to be done</p> <p>14 first and in what order.</p> <p>15 Q. Other than the written verbal -- other than</p> <p>16 the written verbal counselings that are reflected in</p> <p>17 Exhibits 4 and 5, did you maintain or keep any notes</p> <p>18 of having counseled Mr. Sampson?</p> <p>19 A. Yes. I mean, I noted that he was given</p> <p>20 counselings on certain days.</p> <p>21 Q. Where would those notes be maintained?</p> <p>22 A. They're on my laptop.</p> <p>23 Q. Your personal laptop or business laptop?</p> <p>24 A. The business.</p> <p>25 Q. How do you -- in what sort of program did</p>

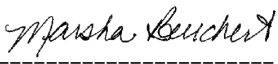


<p style="text-align: right;">21</p> <p>1 you use to write them down?</p> <p>2 <b>A. Just Word. Just date and Word.</b></p> <p>3 MR. STEVENS: I don't know if you've asked</p> <p>4 for those or produced those, but if you haven't --</p> <p>5 MR. LEE: I'll check.</p> <p>6 MR. STEVENS: -- if you could provide</p> <p>7 those. Let's take a break.</p> <p>8 (Recess.)</p> <p>9 Q. BY MR. STEVENS: Back on the record.</p> <p>10 So you were referring to a time when you</p> <p>11 were on vacation. Do you know when that was? When</p> <p>12 you were out of the office on vacation?</p> <p>13 <b>A. Oh, gosh. No.</b></p> <p>14 Q. Okay.</p> <p>15 <b>A. I mean, I take a vacation every once in a</b></p> <p>16 <b>while. I am sure it was to Maryland. I have kids</b></p> <p>17 <b>that live there.</b></p> <p>18 MR. STEVENS: I have no further questions.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21 BY MR. LEE:</p> <p>22 Q. Don, I just have a couple of questions for</p> <p>23 you here.</p> <p>24 Mr. Stevens asked you about verbal</p> <p>25 counselings. What do you understand "verbal</p>	<p style="text-align: right;">23</p> <p>1 <b>Hey, this isn't the right way. Let's do it this way.</b></p> <p>2 <b>Just the basic floor-type counselings or corrections,</b></p> <p>3 <b>I guess.</b></p> <p>4 Q. So it was the more serious errors that --</p> <p>5 let me rephrase that.</p> <p>6 What would result in actually creating --</p> <p>7 it's kind of weird to call it a verbal counseling</p> <p>8 because it's in writing. You know what I am talking</p> <p>9 about? The verbal counselings in Exhibits 4 and 5,</p> <p>10 what would result in someone actually getting one of</p> <p>11 those?</p> <p>12 <b>A. When we talk to them on the floor, and if</b></p> <p>13 <b>they don't quite understand or correct the behavior,</b></p> <p>14 <b>then we have to write it down. So it's more of a</b></p> <p>15 <b>documented verbal I guess.</b></p> <p>16 MR. LEE: No further questions.</p> <p>17</p> <p>18 FURTHER EXAMINATION</p> <p>19 BY MR. STEVENS:</p> <p>20 Q. Did you ever impose a disciplinary action</p> <p>21 without having some sort of written record?</p> <p>22 <b>A. No. All disciplinaries are written and</b></p> <p>23 <b>signed.</b></p> <p>24 MR. STEVENS: No further questions.</p> <p>25</p>
<p style="text-align: right;">22</p> <p>1 counseling" to mean?</p> <p>2 <b>A. Verbal counseling, I guess the actual form</b></p> <p>3 <b>would be -- I guess it's more official.</b></p> <p>4 Q. You mean the -- you're referring to the</p> <p>5 form, I think it was Exhibit 4 or 5, that says</p> <p>6 "counseling" at the top with the box "verbal"</p> <p>7 checked. Is that what you mean?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Were there instances where you counseled or</p> <p>10 coached people and didn't write it down?</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. Were there instances where you counseled or</p> <p>13 coached or disciplined Mr. Sampson and didn't write</p> <p>14 it down?</p> <p>15 <b>A. Oh, I am sure there was, yes.</b></p> <p>16 Q. What about other employees at Kane? Were</p> <p>17 there instances where you disciplined or counseled or</p> <p>18 coached or spoke with them about an incident or their</p> <p>19 performance without writing that down?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. How frequently did that occur?</p> <p>22 <b>A. Well, it was during the start-up period.</b></p> <p>23 <b>Oh, gosh, two or three times a week. People make an</b></p> <p>24 <b>error; people make a mistake. Stack something wrong;</b></p> <p>25 <b>load something wrong. We're always telling them,</b></p>	<p style="text-align: right;">24</p> <p>1 FURTHER EXAMINATION</p> <p>2 BY MR. LEE:</p> <p>3 Q. What do you mean by "discipline" when you</p> <p>4 say that?</p> <p>5 <b>A. Discipline is if -- whatever is in the</b></p> <p>6 <b>verbal -- verbal is kind of like a first step. If</b></p> <p>7 <b>you don't correct your behavior, then we go to a</b></p> <p>8 <b>written counseling, then a suspension, a final, just</b></p> <p>9 <b>trying to coach them up.</b></p> <p>10 Q. So by "discipline," do you mean -- what do</p> <p>11 you interpret "discipline" to mean when Mr. Stevens</p> <p>12 says you would never discipline someone without</p> <p>13 writing it down? Is that like a termination or</p> <p>14 something? What do you mean "discipline" to mean</p> <p>15 there?</p> <p>16 <b>A. Actually discipline would be like a final</b></p> <p>17 <b>step that leads towards termination. Other than</b></p> <p>18 <b>that, all these check marks in 4 and 5, these are</b></p> <p>19 <b>all -- the verbal, the written, these are all</b></p> <p>20 <b>coaching tools. I wouldn't call them disciplinary.</b></p> <p>21 <b>As a matter of fact -- for instance, when I write</b></p> <p>22 <b>somebody up for attendance and I give them -- start</b></p> <p>23 <b>with the verbal for attendance, it's a benefit to</b></p> <p>24 <b>them because I am telling them where they're at, and</b></p> <p>25 <b>telling them they're starting to step outside the</b></p>

25

1 bounds so they can correct themselves. But as far as  
 2 discipline, that would be way down the road with  
 3 suspension, termination, I guess.  
 4 MR. LEE: No further questions.  
 5 MR. STEVENS: Do you want him to read and  
 6 sign?  
 7 MR. LEE: Sign the transcript?  
 8 MR. STEVENS: Yeah. Do you want a reading  
 9 copy? It's up to you.  
 10 MR. LEE: I think we can just -- have we  
 11 been --  
 12 MR. STEVENS: He got a reading copy. I  
 13 don't think we made any corrections to it.  
 14 MR. LEE: Yeah, we would take that just to  
 15 look through it. Yeah.  
 16 THE COURT REPORTER: Copy for you?  
 17 MR. LEE: Yes, electronic.  
 18 (Deposition concluded at 9:46 a.m.)  
 19  
 20  
 21  
 22  
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 24  
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27

1 REPORTER'S CERTIFICATE  
 2 STATE OF UTAH )  
 ) ss.  
 3 COUNTY OF SALT LAKE )  
 4 I, Marsha Beuchert, Registered  
 5 Professional Reporter and Notary Public in and for  
 6 the State of Utah, do hereby certify:  
 7 THAT the foregoing proceedings were  
 8 taken before me at the time and place set forth in  
 9 the caption hereof; that the witness was placed under  
 10 oath to tell the truth, the whole truth, and nothing  
 11 but the truth; that the proceedings were taken down  
 12 by me in shorthand and thereafter my notes were  
 13 transcribed through computer-aided transcription; and  
 14 the foregoing transcript constitutes a full, true,  
 15 and accurate record of such testimony adduced and  
 16 oral proceedings had, and of the whole thereof.  
 17 I have subscribed my name on this  
 18 11th day of September, 2018.  
 19  
 20  
 21   
 22 MARSHA BEUCHERT, RPR  
 23  
 24  
 25

26

1 WITNESS CERTIFICATE  
 2 I, DON MAXWELL, HEREBY DECLARE:  
 3 That I am the witness in the foregoing  
 4 transcript; that I have read the transcript and know  
 5 the contents thereof; that with these corrections I  
 6 have noted this transcript truly and accurately  
 7 reflects my testimony.  
 8  
 9  
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PAGE-LINE	CHANGE/CORRECTION	REASON
7	-----	-----
8	-----	-----
9	-----	-----
10	-----	-----
11	-----	-----
12	-----	-----
13	-----	-----

14 No corrections were made.

15 I, DON MAXWELL, HEREBY DECLARE UNDER THE  
 16 PENALTIES OF PERJURY OF THE LAWS OF THE UNITED STATES  
 17 OF AMERICA AND THE LAWS OF THE STATE OF UTAH THAT THE  
 18 FOREGOING IS TRUE AND CORRECT.  
 19  
 20  
 21  
 22  
 23  
 24  
 25

18 ----- DON MAXWELL -----  
 19  
 20 SUBSCRIBED and SWORN to at -----  
 21 -----, this ----- day of -----,  
 22 2018.  
 23  
 24 -----  
 25 Notary Public



<hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p>1 4:16,17 12 15:8 14 18:8,13,19 16 19:23</p>	<p>action 17:7 23:20 actual 22:2 affirmative 7:2 agency 13:20 15:4 Alfonso 19:10 allegations 12:5,8 Ann 19:10 appears 8:6 9:24 asks 14:22 assistance 5:25 6:2 associate 7:20,21,23 8:21 9:2,20 11:15 17:16 18:14,20 attendance 14:10 24:22,23 attention 17:18 authority 5:22,24 aware 11:14 12:4,7 19:2</p>	<p>coach 6:17,22 7:24 9:12 15:2 24:9 coached 20:11 22:10,13,18 coaching 6:21 24:20 communication 6:4 compensation 14:12 concluded 25:18 contact 15:23 contacting 16:2 copy 4:21 11:25 18:8 19:24 25:9,12,16 correct 8:18 9:5 10:4 13:12, 24,25 14:13,14 15:6 17:8 18:3 23:13 24:7 25:1 corrections 23:2 25:13 correctives 11:22 correctly 10:18 counsel 9:16 counseled 20:18 22:9,12, 17 counseling 7:20,22,23 8:17,21,22 9:2,20,21 11:15 17:16 18:15,20 22:1,2,6 23:7 24:8 counselings 8:20 9:1 11:21 20:16,20 21:25 23:2,9 couple 6:24 11:23 12:25 20:8 21:22 court 8:13 25:16 cover 7:7 13:14 covered 13:15 covers 7:6 creating 23:6 customer 10:9 11:6 customers 4:14</p>	<p>differently 18:25 direction 5:25 6:1 20:9,10, 12 disciplinaries 23:22 disciplinary 17:7 23:20 24:20 discipline 24:3,5,10,11,12, 14,16 25:2 disciplined 22:13,17 discussed 19:7 discussions 16:17 distribute 4:9 document 8:1 9:1 11:25 12:4,5 19:24 documented 23:15 Don 3:3,10 21:22 downstream 10:16 drivers 4:10 duly 3:4 duties 4:8,9 6:7,11,14 14:2, 12</p>
<hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p>2 5:12,13,16 7:4 2015 13:15 18:1 2016 11:1 13:11 24 11:1 27 13:11</p>	<hr/> <p style="text-align: center;"><b>B</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>E</b></p> <hr/>
<hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p>3 6:25 7:1,8,14 3/27 18:5</p>	<p>back 12:20 16:20,23 17:15 21:9 based 17:13 basic 7:6,7 23:2 basically 3:19 9:9 12:13 20:4,13 behavior 23:13 24:7 believed 18:24 benefit 24:23 bit 11:8 bounds 25:1 box 22:6 break 15:9,10,19 21:7 breaks 15:24 bring 10:13 bringing 6:9 brought 10:15 17:17 building 10:14 business 20:23,24</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<p>e-mail 18:8,13 electronic 25:17 eliminate 17:2,6,12 employed 3:13,25 4:2 5:20 6:6 11:13 14:1,7 15:11 employee 14:22 15:5 employees 5:23 11:14 22:16 end 5:7 13:15 ended 17:25 ensure 9:17 entire 3:25 6:13 error 10:8,12,13,19,21 11:10,16,21 20:8 22:24 errors 23:4 establishing 15:18 evaluate 14:25 evaluated 13:8 EXAMINATION 3:7 21:20 23:18 24:1 examined 3:5 Exhibit 4:17 5:13,16 7:1,4, 8,14,19 9:20 10:20 11:25 12:8 13:2,9,17 14:15 15:8 17:19 18:8,13,19 19:23 22:5 Exhibits 17:15,17 20:17 23:9</p>
<hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p>4 7:19 17:15,17 20:17 22:5 23:9 24:18 45-day 13:18</p>	<hr/> <p style="text-align: center;"><b>C</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>
<hr/> <p style="text-align: center;"><b>5</b></p> <hr/> <p>5 9:19,20 10:20 17:15,17 20:17 22:5 23:9 24:18</p>	<p>call 11:8 23:7 24:20 called 3:4 carriers 6:4 case 10:22 catching 6:17,20 caused 10:10 check 10:2 11:17,23 15:17 21:5 24:18 checked 22:7 claim 18:23 19:9 clear 8:14</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>
<hr/> <p style="text-align: center;"><b>6</b></p> <hr/> <p>6 11:24,25 12:8</p>	<p>call 11:8 23:7 24:20 called 3:4 carriers 6:4 case 10:22 catching 6:17,20 caused 10:10 check 10:2 11:17,23 15:17 21:5 24:18 checked 22:7 claim 18:23 19:9 clear 8:14</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>
<hr/> <p style="text-align: center;"><b>7</b></p> <hr/> <p>7 13:2,3,9 17:19</p>	<p>call 11:8 23:7 24:20 called 3:4 carriers 6:4 case 10:22 catching 6:17,20 caused 10:10 check 10:2 11:17,23 15:17 21:5 24:18 checked 22:7 claim 18:23 19:9 clear 8:14</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>
<hr/> <p style="text-align: center;"><b>8</b></p> <hr/> <p>8 13:17</p>	<p>call 11:8 23:7 24:20 called 3:4 carriers 6:4 case 10:22 catching 6:17,20 caused 10:10 check 10:2 11:17,23 15:17 21:5 24:18 checked 22:7 claim 18:23 19:9 clear 8:14</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>
<hr/> <p style="text-align: center;"><b>9</b></p> <hr/> <p>9 14:15 9:46 25:18</p>	<p>call 11:8 23:7 24:20 called 3:4 carriers 6:4 case 10:22 catching 6:17,20 caused 10:10 check 10:2 11:17,23 15:17 21:5 24:18 checked 22:7 claim 18:23 19:9 clear 8:14</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>
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<hr/> <p style="text-align: center;"><b>A</b></p> <hr/>	<p>call 11:8 23:7 24:20 called 3:4 carriers 6:4 case 10:22 catching 6:17,20 caused 10:10 check 10:2 11:17,23 15:17 21:5 24:18 checked 22:7 claim 18:23 19:9 clear 8:14</p>	<hr/> <p style="text-align: center;"><b>D</b></p> <hr/>	<hr/> <p style="text-align: center;"><b>F</b></p> <hr/>

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